



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,013	10/15/2003	Marek Szymanski	964-031638	4897

28289 7590 06/01/2005  
THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

EXAMINER

FISCHMANN, BRYAN R

ART UNIT PAPER NUMBER

3618

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/686,013	SZYMANSKI, MAREK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryan Fischmann	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03-15-04 &amp; 04-23-04</u>   | 6) <input type="checkbox"/> Other: _____                                    |

***Specification***

1. The specification is objected to because of the following:

A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

1) Line 1 of paragraph 0010 recites "party open".

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the features canceled from the claims. No new matter should be entered.

Claims 1, 4 – the battery block

Claims 6 and 15-18 – the rear portion of the beam being rigidly connected with a rear counterweight of the fork lift truck.

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The drawings are considered informal, as the reference numbers and associated lead lines are not uniform and well defined. See 37 CFR 1.84(i).

***Claim Objections***

4. Claims 12-18 are objected to because of the following:

A) Claim 12 recites "...wherein in a forward portion...".

This recitation is objected to, as being awkwardly worded.

Suggested improved wording is "wherein a forward portion of the beam".

See also claims 13 and 14

B) Claim 15 recites "...wherein the beam in its rear portion...".

This recitation is objected to, as being awkwardly worded.

Suggested improved wording is "wherein a rear portion of the beam".

See also claims 16-18

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 3618

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-6 and 9-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Japanese Patent JP 2002-265191.

JP 2002-265191 teaches fork lift truck, comprising:

a chassis (Figure 1); and

a battery block (20) configured to be located inside the chassis,

wherein the chassis has a lateral opening for removal of the battery block in a substantially lateral direction (Figure 2), and wherein the chassis includes a beam (10) to which a bending load can be applied and which beam is located on an upper side of the opening in the chassis (Figure 3).

Regarding claims 2, 3 and 9, see Figure 1.

Regarding claims 4, 5 and 10-13, see the "forward end" of Figure 7.

Regarding claims 6 and 15-18, see Figures 1, 2 and reference number 61 of Figure 9.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 8, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP 2002-265191.

JP 2002-265191 fails to teach that the beam is T-shaped, or hollow.

However, note that it is considered within the skill level of one of ordinary skill in the art to change the shape of an object. See Section 2144 of the MPEP. Making the beam T-shaped is advantageous in that the area moment of inertia is increased, making the beam more resistant to bending or torsional loads. Making the beam hollow is advantageous in that the area moment of inertia is increased over the "flat beam" of JP 2002-265191, while the hollow interior portion, which would be subjected to low stresses in bending, or torsion if the beam were solid, contributes to significant reduction in weight, without significant loss of strength.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the beam of JP 2002-265191 T-shaped, or hollow.

Art Unit: 3618

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Hafer, Marton, Syzmanski, et al, DE 19641254, JP 10-36089, JP 11-246193, JP 2001-48493 and JP 2001-187698 – teach electrically powered fork lifts, or other electrically powered vehicles where the battery is removable and structure surrounding the battery

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (571) 272-6694. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5-31-5  
**BRYAN FISCHMANN**  
**PRIMARY EXAMINER**